MT LEGISLATIVE HISTORY

Chapter 351 1983

Bill H _____ (S) 239 Original bill & hist. ✓ C

H. Committee on Business & Labor			S. Committee on Business & Industry		
Hearing Date(s)	MAR 21	✓ C	Hearing Date(s)	FEB 6	✓ C
		C		FEB 8	✓ C
		C			C
		C			C
Date Out	MAR 21	✓ C		FEB 8	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

SENATE BILL NO. 239

INTRODUCED BY LYBECK, RAMIREZ

IN THE SENATE

January 24, 1985	Introduced and referred to Committee on Business and Industry.
February 8, 1985	Committee recommend bill do pass. Report adopted.
February 9, 1985	Bill printed and placed on members' desks.
February 11, 1985	Second reading, do pass.
February 12, 1985	Considered correctly engrossed.
February 13, 1985	Third reading, passed. Ayes, 50; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Business and Labor.
March 22, 1985	Committee recommend bill be concurred in. Report adopted.
March 23, 1985	Second reading, concurred in.
March 26, 1985	Third reading, concurred in.
	Returned to Senate.

IN THE SENATE

March 26, 1985	Received from House.
March 27, 1985	Sent to enrolling.
	Reported correctly enrolled.

Senate BILL NO. 239

INTRODUCED BY Lybeck, Yammy

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW ON FUTURE ADVANCES UNDER A MORTGAGE; AUTHORIZING THE USE OF MORTGAGES TO SECURE A LINE OF CREDIT WITH VARYING BALANCES; AMENDING SECTION 71-1-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-1-206, MCA, is amended to read:

"71-1-206. Future advances. (1) The ~~total~~ amount of ~~all~~ future advances ~~contemplated~~ or total indebtedness that may be outstanding at any given time and ~~to--be~~ subject to mortgage protection must be stated in the mortgage~~;~~. ~~provided-the~~ The mortgagee may reserve the right, at the mortgagee's option, to refuse to make all or any part ~~thereof~~ of a future advance. The total amount of indebtedness that may be secured by the mortgage may decrease or increase from time to time, but the total principal amount of the obligations secured at any one time may not exceed the face amount stated in the mortgage together with interest as provided in the instrument secured by the mortgage.

(2) The lien for ~~said~~ the stated amount of ~~said~~ future advances or total indebtedness shall, notwithstanding the

fact that from time to time during the term of the mortgage no indebtedness is due from the mortgagor to the mortgagee, have priority to the same extent as if the amount thereof had been actually advanced by the mortgagee to the mortgagor at the time of the execution of the mortgage. The lien extends to interest as provided in the instrument secured by the mortgage.

(3) The mortgagee shall, upon demand of the mortgagor or a creditor, furnish a statement of all such advances and amounts paid on the principal sum secured, provided such statement shall not impair or affect the lien created for all advances. Upon receipt of such statement or at any other time following the execution and delivery of the mortgage, the mortgagor may deliver written notice, duly acknowledged, to the mortgagee plainly stating that the mortgagor does not desire to request or apply for any future advances if none have been allowed or for any further advances if additional advances have in fact been theretofore allowed under the mortgage, clearly identifying the mortgage by reference to its date, the parties thereto, and the principal amount of the original indebtedness and the limit placed on contemplated future advances, if allowed. Upon the recording of such written notice by the mortgagor in the county and counties where the mortgage is recorded, the lien of the mortgage shall continue to have priority, but only for the

INTRODUCED BILL
SB 239

aggregate amount of the indebtedness then existing, including any advances theretofore made, interest due, and other charges as evidenced by the original loan-contract and indebtedness thereafter accumulating on such basis, exclusive of any other future advances originally contemplated. The mortgagor retains the right to demand satisfaction of the mortgage at any time the balance is zero."

NEW SECTION. Section 2. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

-End-

CHAIRMAN--HALLIGAN, MIKE
SECRETARY-DUVAL, CAROL
NORMAL SCHEDULE==> SITE: ROOM 410 DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0212	1/24	2/05	2/05 2/08	ADVERSE REPORT		2/8
ECK, DOROTHY			AUTHORIZING AGREEMENTS TO AUGMENT AMTRAK SERVICE			
SB0216	1/23	1/31	1/31	PASS AS AMENDED		1/31
BOYLAN, PAUL F.			GENERAL REVISION OF CONSUMER LOAN LAW			
SB0232	1/23	2/01	2/01 2/08	DO PASS		2/8
THAYER, GENE			MERGING BANKS MAY CONTINUE TO OPERATE MAIN OFFICES			
SB0233	1/23	1/31	1/31 2/06	PASS AS AMENDED		2/6
REGAN, PAT			PROVIDE 30-DAY LIFE INSURANCE SETTLEMENT PERIOD OR INTEREST WILL ACCRUE			
SB0239	1/24	2/06	2/06 2/08	DO PASS		2/8
LYBECK, RAY			FUTURE ADVANCES; MORTGAGE TO SECURE LINE OF CREDIT; VARYING BALANCES			
SB0250	1/26	2/07	2/08 2/08 2/13	ADVERSE REPORT		2/13
MAZUREK, JOSEPH P.			REAL ESTATE RECOVERY ACCOUNT FOR UNSATISFIED JUDGMENTS			
SB0252	1/26	2/05	2/05 2/13 2/15	TABLED		2/15
FULLER, DAVID E.			UNFAIR TRADE PRACTICES - CEASE AND DESIST ORDERS			
SB0297	2/01	2/12	2/15	ADVERSE REPORT		2/15
ECK, DOROTHY			ALLOW PSC TO ORDER INDEPENDENT UTILITY AUDIT TO BE PAID FOR BY UTILITY			
SB0303	2/01	2/08		PASS AS AMENDED		2/8
MANNING, RICHARD E.			CLARIFY PSC AUTHORITY REGARDING NATUR AL GAS PIPELINE SAFETY ACT VIOLATIONS			
SB0306	2/02	2/13	2/15	PASS AS AMENDED		2/15
HAFFEY, JACK			AUDITS OF ECONOMIC DEVELOPMENT BOARD BY BANK EXAMINERS & LEGISLATIVE AUDIT			
SB0317	2/04	2/13	2/21	TABLED		2/21
ECK, DOROTHY			ACT ALLOWING PSC TO PREVENT UTILITY FROM ACTING PENDING PSC INVESTIGATION			

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 6, 1985

The sixteenth meeting of the Business & Industry Committee met at 10 a.m. in Room 410 of the Capitol Building with Chairman Halligan calling the meeting to order.

ROLL CALL: All committee members were present except for Senator Fuller who was excused.

CONSIDERATION OF SENATE BILL 239: Senator Ray Lybeck, Senate District 4, Kalispell, is the chief sponsor of Senate Bill 239. This bill revises the law on future advances under a mortgage and authorizes the use of mortgages to secure a line of credit with varying balances.

PROPONENTS: Brad Walterskirchen, representing the Montana Bankers Association, stated changes are necessary for mortgages to secure a line of credit with fluctuating balances. Home equity mortgages are currently sweeping the country and there must be language changes made to alleviate the problems now occurring. (EXHIBIT 1) John Cadby from the Montana Bankers Association also spoke in support of this bill.

OPPONENTS: There were no opponents to Senate Bill 239.

Questions were then called for. Senator Goodover wanted an example of a typical home equity loan and how it would work. Mr. Walterskirchen stated a typical mortgage of $90,000 might have a first mortgage of $30,000. The mortgagee could then take out $10,000 in evolving credit. He could be advanced $1000 and over the term of the loan could withdraw the remaining balance as he needed to. Senator Halligan wanted to know how refinancing was done in the past and was told it was usually by a second mortgage. Senator Christiaens wanted to know about disclosure and was told they would disclose on it as if it were for the total amount. Senator Gage wondered if people were notified of rate changes and was told they would be. Senator Goodover wanted to know what other fees are involved and was told they would be for title insurance, appraisal fees, recording fees, etc. Mr. Walterskirchen will bring an example of a typical loan for the committee to inspect. (EXHIBIT 1) Senator Thayer wanted to know what the advantage was to this type of borrowing method and was told it was more flexible and a great time savings. Senator Lybeck closed by stating this is a very necessary piece of legislation which will provide protection for the lender and the borrower. The hearing on Senate Bill 239 was closed.

EXHIBIT 1
BUSINESS & INDUSTRY
February 6, 1985

TO: SENATE BUSINESS & INDUSTRY COMMITTEE
Senator Halligan, Chairman

FROM: BRAD WALTERSKIRCHEN, Chairman
MBA Real Estate Committee

DATE: February 7, 1985

RE: SENATE BILL 239

As requested by Senator Halligan, I am enclosing an example of a "Home Equity Mortgage' to assist in explaining the proposed bill. But first it should be noted that Senate Bill 239 simply revises the existing State Statute Section 71-1-206 to clearly include revolving and fluctuating balance loans that are secured by mortgages. Not only does this include "Home Equity Mortgage" loan programs but also covers commercial and agricultural loans under a similar revolving structure as well.

Credit card revolving balance accounts would be a good example to compare too. All these loan programs presently exist within the state but opinions rendered by legal council advise lenders a liability does exist which does inhibit lenders from these specific types of credit presently in demand by consumers.

How a Typical Home Equity Mortgage Works

The lender typically does a credit analysis to determine that the applicant is a creditworthy customer, and then extends a line of credit based on 70% of the appraised value of the home. For example, if the home is worth $100,000 and there is a $50,000 first mortgage, the home could support a line of credit up to $20,000.

Once the line of credit has been granted, the customer can draw on his account at any time up to the maximum. Usually this is done in increments that must be larger than $500. The customer pays simple interest on the balance outstanding at a floating rate of interest. There is always a minimum monthly amount paid similar to Visa and Mastercard.

The customer receives an initial disclosure as required by the Federal Truth in Lending Act which tells him:

1) circumstances under which a finance charge will be imposed
2) the amount of fees
3) security interest the bank is taking
4) a statement of the customers billing rights
5) length of loan

In addition there are monthly disclosures to the customer which includes a complete accounting of all changes in principal and interest. Like a credit card, the customer may pay it off in full at any time.

The lien instrument in this case, a trust indenture, would be recorded showing the initial advance of $500 with a $19,500 future advance provision. The borrower may at any time during the term draw up to $20,000.

If the borrower's line of credit reaches $20,000, and he then reduces the principal balance by $10,000, the borrower may again advance himself $10,000 bringing the balance due again to $20,000.

This type of credit will become an increasingly valua source of consumer credit. It is becoming very popular throug out the nation. Consumers like the flexibility and ease borrowing money when needed without a lot of hassle and tir spent obtaining a loan.

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 2/6/

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSE
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller			X
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		

Each day attach to minutes.

DATE FEBRUARY 6, 1985

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Lester H. Loble II	Am. Council of Life Ins.	HB 72	✓	
Tom K. Hopgood	" " "	"	✓	
Brad Walterskirchen	Montana Bankers Asso.	SB 239	✓	
Elmer Halvorson	Myself	HB 72	✓	
Bruce Loble	ACLI	HB 72	✓	
John Cadby	MT Bankers Assoc	SB 239	✓	

(Please leave prepared statement with Secretary.)

(This sheet to be used by those testifying on a bill.)

NAME: BRAD WALTERSKIRCHEN DATE: 2-6-85

ADDRESS: P.O. Box 48 KALISPELL

PHONE: 755-7123

REPRESENTING WHOM? MONTANA BANKERS ASSN

APPEARING ON WHICH PROPOSAL: Senate Bill 239

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENT: Have Comment

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETAR

EXHIBIT 1
BUSINESS & INDUSTRY
February 6, 1985

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 8, 1985

The eighteenth meeting of the Business & Industry Committee met on February 8, 1985 in Room 410 of the Capitol Building. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All committee members were present.

CONSIDERATION OF SENATE BILL 303: Senator Richard Manning, Senate District 18 from Great Falls, introduced Senate Bill 303 which will clarify the authority of the public service commission to assess fines for violations of the federal natural gas pipeline safety act.

PROPONENTS: Bob Gannon, with Montana Power Company, stated they are in favor of this bill with a proposed amendment. (EXHIBIT 1) He explained the law passed in 1969 did not do what it was intended to do and they are proposing the word "public utility" should be replaced with "person" in the bill. In subsection 2 they propose to add lists the circumstances which are to be considered when a fine is to be assessed or claimed and this is based on what is already in federal law. Eileen Shore, Attorney for the Public Service Commission, wants it clear in Montana statutes that the commission could enforce the federal pipeline safety act and could assess fines under this act. They support the amendments proposed by Montana Power. (EXHIBIT 2)

OPPONENTS: There were no opponents.

Questions were then called for. Senator Gage wanted to know when the fine would be assessed and was told it would be assessed for each day that the offense occurred and that they are assessed by the state only not both federal and state. Senator Manning was asked if he objected to this amendment and he stated he did not. Bob Gannon showed the committee the copy from the federal statute which they patterned their amendment after. (EXHIBIT 3) Senator Gage was concerned about whether or not a penalty could be assessed only during construction and Eileen Shore stated it is both for maintenance and during construction. Senator Manning closed the hearing on Senate Bill 303.

DISPOSITION OF SENATE BILL 303: Senator Christiaens made a motion that the amendments as proposed by Montana Power DO PASS. Motion carried. Senator Goodover then made a motion to PASS Senate Bill 303 AS AMENDED. Motion carried.

Senator Christiaens then moved that the statement of intent have the word public utility stricken out and insert any person instead and BE ADOPTED AS AMENDED. Motion carried. (EXHIBIT 4)

DISPOSITION OF SENATE BILL 212: Senator Halligan reiterated this bill will just allow the governor the authority to enter into agreements with other states and agencies to augment service of Amtrak. Senator Thayer felt it was just a waste of time and Senator Goodover reminded the committee of the problems of the bus service getting enough passengers to support themselves. If Amtrak wants to be here they will be he feels. They feel the governor has the authority already. Senator Halligan restated this just allows him authority if there is expansion of the southern route by Amtrak to negotiate. Senator Goodover then made a motion that Senate Bill 212 DO NOT PASS. The motion carried with Senator Boylan and Senator Halligan voting nc

DISPOSITION OF HOUSE BILL 195: Senator Christiaens then moved that House Bill 195 BE CONCURRED IN. Motion carried.

DISPOSITION OF SENATE BILL 239: An example of a typical loan was distributed by Brad Walterskirchen to the committee members. Senator Halligan stated he had checked this out with other senators and others and there were no objections to this bill. (EXHIBIT 5) Senator Christiaens wanted an explanation of the disclosure required and was told by Earl Johnson, of First Bank, Helena, that it was based upon their line of credit. Senator Thayer then moved that Senate Bill 239 DO PASS. The motion carried.

CONSIDERATION OF SENATE BILL 250: Senator Christiaens felt there were some problems with this bill as presented and particularly with the reinsurance issue. He felt it should be discussed in subcommittee. Mary McCue, Senator Christianes, Senator Goodover, and Senator Halligan will meet with Senator Mazurek to try and develop some amendments and report back to the committee.

DISPOSITION OF SENATE BILL 232: Senator Thayer felt the bill received a fair hearing and he personally feels it is a good bill and is not a branching bill as some opponents say. He feels it will bring in more money to the state and perhaps help out the agricultural banks. Senator Thayer then made a motion that Senate Bill 232 DO PASS. Senator Williams felt it warrants more discussion on the floor. Senator Gage and Senator Christiaens felt it would not save agricultural banks. Senator Halligan asked Steve Browning, First Bank, about the amendment discussed of putting something in the bill for "failing banks" and felt it was unfair to place the burden on three out-of-state holding company banks. Steve Brown felt if there were two failing banks in a community the more successful would be the one chosen. Senator Thayer quoted from an article in "The American Banker" concerning banking troubles. (EXHIBIT 6) The motion passed on a roll call vote 7 to 3 with senators Boylan, Gage and Kolstad voting no.

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 2/8/8

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		

Each day attach to minutes.

EXHIBIT 5
BUSINESS & INDUST
February 8, 1985

TO: SENATE BUSINESS & INDUSTRY COMMITTEE
Senator Halligan, Chairman

FROM: BRAD WALTERSKIRCHEN, Chairman
MBA Real Estate Committee

DATE: February 7, 1985

RE: SENATE BILL 239

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STANDING COMMITTEE REPORT

FEBRUARY 6 19 85

MR. PRESIDENT

We, your committee on BUSINESS & INDUSTRY

having had under consideration SENATE BILL No. 239

first reading copy (white color)

FUTURE ADVANCES; MORTGAGE TO SECURE LINE OF CREDIT; VARYING BALANCES

Respectfully report as follows: That SENATE BILL No. 239

DO PASS

~~DO NOT PASS~~

Mike Halligan Chairman.

VISITORS' REGISTER

BUSINESS AND LABOR COMMITTEE

BILL NO. Senate Bill 239 DATE March 21, 1985

SPONSOR Senator Lybeck

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JULIE BEGLER	MONTANA BANKERS	SB 239	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

(To be kept current -- post bills when entering, being heard or leaving committee.) Form CS-32

STATUS SHEET

49TH LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND LABOR

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
214	2-27	3-15/3-18 3-20	3-20				3-20		
216	2-27	3-14	3-14				3-14		
221	2-27	3-15/3-18	3-18					3-18	
224	2-27	3-15/3-18	3-18				3-18		
233	2-27	3-20	3-20					3-20	
239	2-27	3-21	3-21				3-21		
250	2-27	3-21/3-28 3-29	3-29					3-29	
263	2-27	3-18	3-18					3-18	
274	2-27	3-18	3-18					3-18	
275	2-27	3-14		TABLED AS AMENDED					
281	3-7	3-22/3-26	3-26				3-26		
303	2-27	3-13	3-13				3-13		
323	2-27	3-21/3-29	3-29				3-29		
325	3-7	3-19/3-21	3-21					3-21	
333	2-27	3-20	3-20				3-20		
337	2-27	3-22	3-22				3-22		

Use a separate sheet for Sena

36

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 21, 1985

The meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich on March 21, 1985 at 8:00 a.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present with the exception of Repreasentative Norm Wallin, who was excused by the chairman.

SENATE BILL 450: Hearing commenced on Senate Bill 450. Senator Chris Christiaens, District #17, sponsor of the bill, explained this expands the definition of "regulated lenders" to include consumer loan licenses and exempts those licensees from the usury limits.

Proponent Jerry Loendorf, representing the Montana Consumer Finance Association, stated lenders are subject to and regulated by both federal and state government. Financial institutions currently package loans with numberous fees and consumer loans may do the same. State and federal government have deregulated lenders so they may compete. Bank holding companies are also deregulated. Senate Bill 450 puts consumer loans on an even basis with other lending institutions.

Representative Driscoll asked Jerry Loendorf what the maximum interest is that can be charged in Montana. Mr. Loendorf explained that there is no limit.

There being no further discussion by proponents and no opponents present, all were excused by the chairman and the hearing on Senate Bill 450 was closed.

SENATE BILL 239: Hearing commenced on Senate Bill 239. Senator Ray Lybeck, District #4, sponsor of the bill, stated this revises the law on future advances under a mortgage to allow the total amount secured to decrease or increase but the total secured may never exceed the face amount of the mortgage plus interest.

Proponent Julie Begler, representing the Montana Bankers Association and a loan officer at Norwest Bank in Helena, explained that banks charge for all services and Senate Bill 239 will extend the line of credit for five years.

There being no further discussion by proponents and no

opponents present, both were excused by the chairman and the hearing on Senate Bill 239 was closed.

SENATE BILL 353: Hearing commenced on Senate Bill 353. Senator Ray Lybeck, District #4, sponsor of the bill, explained this gives preference for loans under the Montana In-State Investment Act of 1983 to companies at least 51 percent owned by Montanans who are employed by the company to assist in providing new jobs or in preserving existing jobs. This will assist employee buyouts and provides a more flexible buyout for employees.

Proponent Ralph Yeager, Administrative Assistant, Governor's Council on Economic Development, Department of Commerce, explained that employee ownership equals new jobs. Assistance has recently been given to three firms who employ over 600 individuals. The credit criteria will not change, an employee must still meet the credit guidelines.

Representative Ray Brandewie, District #49, offered his support of the bill.

In closing, Senator Lybeck, stated the Arco plant is facing difficulty in keeping the plant operating. There has been talk of employees buying out the plant, but they do not have the expertise to do so.

Representative Thomas asked Senator Lybeck how this will work. Senator Lybeck explained that a preference will be given these individuals by the department which will make it feasible for them to go through with a plan.

Representative Schultz asked Ralph Yeager where money would be found to buyout Arco. Mr. Yeager stated that through the department and the "Build Montana" fund there may not be sufficient dollars and that the coal tax fund could possibly assist.

Representative Ellerd asked Ralph Yeager where the Montana In-State Investment Act money comes from. Mr. Yeager explained that it comes from the Montana Economic Development Board and the coal tax fund.

Representative Kadas asked Ralph Yeager if this applies to feasibility studies or just investments. Mr. Yeager stated it will apply to investments under the Montana Economic Development Board in addition to current preference criteria.

Representative Jones asked Byron Roberts if a plan can be

must purchase a bond and Senate Bill 250 will still provide for public protection, we should allow the realtors to set up their own system.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on Senate Bill 250 was closed.

SENATE BILL 323: Hearing commenced on Senate Bill 323. Senator Tom Hager, District #48, sponsor of the bill, by request of the Board of Professional Engineers and Land Surveyors, stated this revises the occupational licensing law in regard to engineers and land surveyors.

Proponent Maurice Guay, a member of the board of professional engineers and land surveyors, stated this is a housekeeping bill. Mr. Guay explained and went through the bill with the committee, commenting on the reason for the changes.

Proponent Robert S. Custer, representing the Montana Association of Registered Land Surveyors, offered his support of the bill.

Representative Schultz asked Senator Hager what the difference between a registered and professional engineer is. Senator Hager explained they are one in the same.

Representative Glaser asked Sonny Hanson if the provision in Section 5 means all officers in a corporation must be registered, professional engineers. Mr. Hanson explained that no, this means the plans and drawing signed as an individual must have the corporate stamp.

Representative Glaser asked Mr. Hanson if a mother and father helped a son set up a shop, must they be engineers to do so. Mr. Hanson stated they need not be engineers and the son would be responsible.

There being no further discussion by proponents and no opponents present, all were excused by the chairman and the hearing on Senate Bill 323 was closed.

ACTION ON SENATE BILL 239: Representative Kitselman moved DO PASS on Senate Bill 239. Second was received, Senate Bill 239 will BE CONCURRED IN by unanimous vote.

ACTION ON SENATE BILL 450: Representative Simon moved DO PASS ON Senate Bill 450. Second was received, Senate Bill 450 will BE CONCURRED IN by unanimous vote.

STANDING COMMITTEE REPORT

March 21 19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration SENATE Bill No. 239

third reading copy (blue color)

FUTURE ADVANCES; MORTGAGE TO SECURE LINE OF CREDIT; VARYING BALANCES

Respectfully report as follows: That SENATE Bill No. 239

~~DO PASS~~
BE CONCURRED IN

STATE PUB. CO.
Helena, Mont.

Rep. Bob Pavlovich, Chairman.

COMMITTEE SECRETARY

DAILY ROLL CALL

BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 21, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd	✓		
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormick	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin			✓

SENATE BILL NO. 239

INTRODUCED BY LYBECK, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW ON FUTURE ADVANCES UNDER A MORTGAGE; AUTHORIZING THE USE OF MORTGAGES TO SECURE A LINE OF CREDIT WITH VARYING BALANCES; AMENDING SECTION 71-1-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-1-206, MCA, is amended to read:

"71-1-206. Future advances. (1) The ~~total~~ amount of ~~all~~ future advances ~~contemplated~~ or total indebtedness that may be outstanding at any given time and ~~to--be~~ subject to mortgage protection must be stated in the mortgage~~,~~. ~~provided-the~~ The mortgagee may reserve the right, at the mortgagee's option, to refuse to make all or any part ~~thereof~~ of a future advance. The total amount of indebtedness that may be secured by the mortgage may decrease or increase from time to time, but the total principal amount of the obligations secured at any one time may not exceed the face amount stated in the mortgage together with interest as provided in the instrument secured by the mortgage.

(2) The lien for ~~said~~ the stated amount of ~~said~~ future advances or total indebtedness shall, notwithstanding the fact that from time to time during the term of the mortgage no indebtedness is due from the mortgagor to the mortgagee, have priority to the same extent as if the amount thereof had been actually advanced by the mortgagee to the mortgagor at the time of the execution of the mortgage. The lien extends to interest as provided in the instrument secured by the mortgage.

(3) The mortgagee shall, upon demand of the mortgagor or a creditor, furnish a statement of all such advances and amounts paid on the principal sum secured, provided such statement shall not impair or affect the lien created for all advances. Upon receipt of such statement or at any other time following the execution and delivery of the mortgage, the mortgagor may deliver written notice, duly acknowledged, to the mortgagee plainly stating that the mortgagor does not desire to request or apply for any future advances if none have been allowed or for any further advances if additional advances have in fact been theretofore allowed under the mortgage, clearly identifying the mortgage by reference to its date, the parties thereto, and the principal amount of the original indebtedness and the limit placed on contemplated future advances, if allowed. Upon the recording of such written notice by the mortgagor in the county and counties where the mortgage is recorded, the lien of the mortgage shall continue to have priority, but only for the

aggregate amount of the indebtedness then existing, including any advances theretofore made, interest due, and other charges as evidenced by the original loan-contract and indebtedness thereafter accumulating on such basis, exclusive of any other future advances originally contemplated. The mortgagor retains the right to demand satisfaction of the mortgage at any time the balance is zero."

NEW SECTION. Section 2. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

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